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REPORT
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EXTENSION OF TIME FOR PERFORMING CERTAIN ACTS FOR INDIVIDUALS WHO ARE PART OF DESERT SHIELD OPERATIONS

JANUARY 23, 1991.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. ROSTENKOWSKI, from the Committee on Ways and Means, submitted the following

REPORT

[To accompany H.R. 4]

The Committee on Ways and Means, to whom was referred the bill (H.R. 4) to extend the time for performing certain acts under the internal revenue laws for individuals performing services as part of the Desert Shield Operation, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. EXTENSION OF TIME FOR PERFORMING CERTAIN ACTS.

(a) INDIVIDUALS PERFORMING DESERT SHIELD SERVICES.—Section 7508 of the Internal Revenue Code of 1986 (relating to time for performing certain acts postponed by reason of service in combat zone) is amended by adding at the end thereof the following new subsection:

"(f) TREATMENT OF INDIVIDUALS PERFORMING DESERT SHIELD SERVICES.—

"(1) IN GENERAL.—Any individual who performed Desert Shield services (and the spouse of such individual) shall be entitled to the benefits of this section in the same manner as if such services were services referred to in subsection (a).

"(2) DESERT SHIELD SERVICES.—For purposes of this subsection, the term 'Desert Shield services' means any services in the Armed Forces of the United States or in support of such Armed Forces if—

"(A) such services are performed in the area designated by the President pursuant to this subparagraph as the 'Persian Gulf Desert Shield area', and

"(B) such services are performed during the period beginning on August 2, 1990, and ending on the date on which any portion of the area referred to in subparagraph (A) is designated by the President as a combat zone pursuant to section 112."

(b) INTEREST ALLOWED ON OVERPAYMENTS.—

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(1) Section 7508 of such Code is amended by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively, and by inserting after subsection (a) the following new subsection:

"(b) SPECIAL RULE FOR OVERPAYMENTS.—

"(1) IN GENERAL.—Subsection (a) shall not apply for purposes of determining the amount of interest on any overpayment of tax.

"(2) SPECIAL RULES.—If an individual is entitled to the benefits of subsection (a) with respect to any return and such return is timely filed (determined after the application of such subsection), subsections (b)(3) and (e) of section 6611 shall not apply."

(2) Paragraph (2) of section 7508(a) of such Code is amended by striking "(including interest)".

(c) EXTENSION AVAILABLE FOR HOSPITALIZATION IN THE UNITED STATES.—

(1) IN GENERAL.—Subsection (a) of section 7508 of such Code is amended—

(A) by striking "outside the United States" the first place it appears, and

(B) by striking "the period of continuous hospitalization outside the United States" and inserting "the period of continuous qualified hospitalization".

(2) QUALIFIED HOSPITALIZATION.—Section 7508 of such Code is amended by adding at the end thereof the following new subsection:

"(g) QUALIFIED HOSPITALIZATION.—For purposes of subsection (a), the term 'qualified hospitalization' means—

"(1) any hospitalization outside the United States, and

"(2) any hospitalization inside the United States, except that not more than 5 years of hospitalization may be taken into account under this paragraph.

Paragraph (2) shall not apply for purposes of applying this section with respect to the spouse of an individual entitled to the benefits of subsection (a)."

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on August 2, 1990.

I. EXPLANATION OF THE BILL

PRESENT LAW

General time limits for filing tax returns

Present law provides that individuals generally must file their Federal income tax returns by April 15 of the year following the close of a taxable year (sec. 6072). Present law also provides that the Secretary may grant reasonable extensions of time for filing such returns (sec. 6081). Treasury regulations provide an additional automatic two-month extension (until June 15 for calendar-year individuals) for United States citizens and residents in military or naval service on duty outside the United States (Treas. Reg. sec. 1.6081-5(a)(6)). No action is necessary to apply for this extension. This extension applies to both filing returns and paying the tax due (interest, however, must be paid from April 15).

Treasury regulations also provide, upon application on the proper form, an automatic four-month extension (until August 15 for calendar-year individuals) for any individual properly filing that form and paying the amount of tax estimated to be due (Treas. Reg. sec. 1.6081-4).

In general, individuals must make quarterly estimated tax payments by April 15, June 15, September 15, and January 15 of the following taxable year. Wage withholding is considered to be a payment of estimated taxes.

Suspension of time periods

In general, present law suspends the period of time for performing various acts under the Internal Revenue Code, such as filing tax returns, paying taxes, or filing a claim for credit or refund of

tax, for any individual serving in the Armed Forces of the United States in an area designated as a "combat zone" during the period of combatant activities (sec. 7508). An individual who becomes a prisoner of war is considered to continue in active service, and is therefore also eligible for these suspension of time provisions. The suspension of time also applies to an individual serving in support of such Armed Forces, such as Red Cross personnel, accredited correspondents, and civilian personnel acting under the direction of the Armed Forces in support of those Forces. The designation of a combat zone must be made by the President in an Executive Order. The President must also designate the period of combatant activities in the combat zone (the starting date and the termination date of combat).

The suspension of time encompasses the period of service in the combat zone during the period of combatant activities in the zone, as well as (1) any time in continuous hospitalization outside the United States resulting from injury received in the combat zone or (2) time in missing in action status, plus the next 180 days.

The suspension of time applies to the following acts:

(1) Filing any return of income, estate, or gift tax (except employment and withholding taxes);

(2) Payment of any income, estate, or gift tax (except employment and withholding taxes);

(3) Filing a petition with the Tax Court for redetermination of a deficiency, or for review of a decision rendered by the Tax Court;

(4) Allowance of a credit or refund of any tax;

(5) Filing a claim for credit or refund of any tax;

(6) Bringing suit upon any such claim for credit or refund;

(7) Assessment of any tax;

(8) Giving or making any notice or demand for the payment of any tax, or with respect to any liability to the United States in respect of any tax;

(9) Collection of the amount of any liability in respect of any tax; and

(10) Bringing suit by the United States in respect of any liability in respect of any tax.

Individuals may, if they choose, perform any of these acts during the period of suspension. The suspension period is also disregarded in calculating the amount of any credit or refund (including interest). Thus, no interest is paid on refunds made pursuant to this provision, and no interest is charged to the taxpayer on underpayments. Special rules apply if the collection of tax is in jeopardy.

Spouses of qualifying individuals are entitled to the same suspension of time, except that the spouse is ineligible for this suspension for any taxable year beginning more than two years after the date of termination of combatant activities in the combat zone.

Exclusion for combat pay

Gross income does not include certain combat pay of members of the Armed Forces (sec. 112). If enlisted personnel serve in a combat zone during any part of any month, military pay for that month is excluded from gross income. In addition, if enlisted personnel are

hospitalized as a result of injuries, wounds, or disease incurred in a combat zone, military pay for that month is also excluded from gross income; this exclusion is limited, however, to hospitalization during any part of any month beginning not more than two years after the end of combat in the zone. In the case of commissioned officers, these exclusions from income are limited to $500 per month of military pay.

Executive Order designating Persian Gulf area as combat zone

On January 21, 1991, President Bush signed Executive Order 12744, designating the Persian Gulf Area as a combat zone. This designation is retroactive to January 17, 1991, the date combat commenced in that area, and continues in effect until terminated by another Executive Order. Thus, individuals serving in the Persian Gulf Area are eligible for the suspension of time provisions and military pay exclusions described above, beginning on January 17, 1991.

The Executive Order specifies that the Persian Gulf Area is the Persian Gulf, the Red Sea, the Gulf of Oman, part of the Arabian Sea, the Gulf of Aden, and the entire land areas of Iraq, Kuwait, Saudi Arabia, Oman, Bahrain, Qatar, and the United Arab Emirates.

REASONS FOR CHANGE

The committee believes that it is appropriate to extend to those who participated in Operation Desert Shield, which began on August 2, 1990, the benefits of the extension of time provisions of section 7508, which are already available to those who are participating in Operation Desert Storm under the Executive Order issued pursuant to the Internal Revenue Code. In addition, the committee believes that it is appropriate to expand the rules relating to both interest on tax refunds and hospitalization for all participants in both operations (as well as those in combat zones in the future).

EXPLANATION OF PROVISION

The bill amends section 7508 by providing that any individual who performs Desert Shield services (and the spouse of such an individual) is entitled to the benefits of the suspension of time provisions of section 7508. Thus, personnel participating in Operation Desert Storm who are entitled to the benefits of these suspension of time provisions commencing January 17, 1991, pursuant to the Executive Order, are also entitled to the benefits of these suspension of time provisions for the period from the commencement of their participation in Operation Desert Shield (which could be as early as August 2, 1990) to the effective date of the Executive Order.

Desert Shield services are defined as services in the Armed Forces of the United States (or in support of those Armed Forces) if such services are performed in the area designated by the President as the "Persian Gulf Desert Shield area" and such services are performed during the period beginning August 2, 1990, and ending on the date on which any portion of the area is designated

by the President as a combat zone pursuant to section 112 (which is January 17, 1991).

The committee understands that the Department of Defense plans to provide to the Internal Revenue Service, on a monthly basis, a computer tape of the military personnel whose service is in the combat zone designated by the Executive Order and who are therefore eligible for the extension of time provisions of section 7508 and the exclusion from income provisions of section 112 (among other provisions). The committee commends the Department of Defense for its cooperativeness in helping ensure that those properly entitled to these benefits receive them as easily as possible.

The bill also amends section 7508 by providing that the rules for determining the amount of interest on a tax refund generally applicable to other taxpayers also apply to those eligible for the benefits of these suspension of time provisions. (In general, these rules provide that the IRS is to pay interest on refunds issued more than 45 days after the return is filed.) In addition, a special rule applies in the case of returns claiming refunds filed during this suspension period. With respect to these qualifying returns, interest will be paid on tax refunds from April 15 (in the case of calendar-year individuals).

The bill also amends section 7508 by extending the suspension provisions that apply during the period of continuous hospitalization inside the United States to continuous hospitalization inside the United States, with two limitations. First, the suspension of time provisions based on continuous hospitalization inside the United States are applicable only to the hospitalized individual; they are not applicable to the spouse of such individual. Second, in no event does this new provision extend beyond five years from the date the individual returns to the United States.

EFFECTIVE DATE

The bill is effective as of August 2, 1990.

II. Budget Effects of the Bill

In compliance with clause 7 of Rule XIII of the Rules of the House of Representatives, the following statement is made about the effect on the budget of this bill, H.R. 4, as amended.

The bill, as amended, is estimated to reduce fiscal year budget receipts by less than $10 million per year annually.

III. Vote of the Committee and Other Matters To Be Discussed Under House Rules

A. VOTE OF THE COMMITTEE

In compliance with clause 2(l)(2)(B) of Rule XI of the Rules of the House of Representatives, the following statement is made about the vote of the committee on the motion to report the bill, H.R. 4, as amended. The bill, as amended, was ordered favorably reported by voice vote.

B. OTHER MATTERS

In compliance with clause 2(l)(3) and 2(l)(4) of rule XI of the Rules of the House of Representatives, the following statements are made with respect to the committee action on H.R. 4, as amended.

Oversight findings

With respect to subdivision (A) of clause 2(l)(3) (relating to oversight findings), the committee advises that it was as a result of the committee's oversight activities with respect to the tax treatment (and time for filing tax returns) of U.S. military and support personnel serving in "Operation Desert Shield" since August 2, 1990, that the committee concluded that it is appropriate to enact the provision contained in the bill.

Tax Expenditures

With respect to subdivision (B) of clause 2(l)(3), after consultation with the Congressional Budget Office, the committee states that the changes made to existing law by the bill as reported involve no new or increased tax expenditures.

Budget authority

With respect to subdivision (B) of clause 2(l)(3), after consultation with the Congressional Budget Office, the committee states that the changes made by the bill as reported involve no new budget authority.

Congressional Budget Office estimates

With respect to subdivision (C) of clause 2(l)(3), the committee advises that the Congressional Budget Office agrees with the committee's budget estimate (as indicated in Part II of this report). No statement was submitted by the Congressional Budget Office.

Oversight by Committee on Government Operations

With respect to subdivision (D) of clause 2(l)(3), the committee advises that no oversight findings or recommendations have been submitted to the committee by the Committee on Government Operations regarding the subject of the bill.

Inflationary impact

In compliance with clause 2(l)(4), the committee states that the enactment of the bill is not expected to have an overall inflationary impact on prices and costs in operation of the national economy.

IV. Changes in Existing Law Made by the Bill, As Reported

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

SECTION 7508 OF THE INTERNAL REVENUE CODE OF 1986

SEC. 7508. TIME FOR PERFORMING CERTAIN ACTS POSTPONED BY REASON OF SERVICE IN COMBAT ZONE.

(a) TIME TO BE DISREGARDED.—In the case of an individual serving in the Armed Forces of the United States, or serving in support of such Armed Forces, in an area designated by the President of the United States by Executive order as a "combat zone" for purposes of section 112, at any time during the period designated by the President by Executive order as the period of combatant activities in such zone for purposes of such section, or hospitalized [outside the United States] as a result of injury received while serving in such an area during such time, the period of service in such area, plus [the period of continuous hospitalization outside the United States] *the period of continuous qualified hospitalization* attributable to such injury, and the next 180 days thereafter, shall be disregarded in determining, under the internal revenue laws, in respect of any tax liability (including any interest, penalty, additional amount, or addition to the tax) of such individual—

(1) * * *

(2) The amount of any credit or refund [(including interest)].

(b) SPECIAL RULE FOR OVERPAYMENTS.—

(1) IN GENERAL.—Subsection (a) shall not apply for purposes of determining the amount of interest on any overpayment of tax.

(2) SPECIAL RULES.—If an individual is entitled to the benefits of subsection (a) with respect to any return and such return is timely filed (determined after the application of such subsection), subsections (b)(3) and (e) of section 6611 shall not apply.

[(b)] *(c)* APPLICATION TO SPOUSE.—The provisions of this section shall apply to the spouse of any individual entitled to the benefits of subsection (a). Except in the case of the combat zone designated for purposes of the Vietnam conflict, the preceding sentence shall not cause this section to apply for any spouse for any taxable year beginning more than 2 years after the date designated under section 112 as the date of termination of combatant activities in a combat zone.

[(c)] *(d)* MISSING STATUS.—The period of service in the area referred to in subsection (a) shall include the period during which an individual entitled to benefits under subsection (a) is in a missing status, within the meaning of section 6013(f)(3).

[(d)] *(e)* EXCEPTIONS.—

(1) TAX IN JEOPARDY; CASES UNDER TITLE 11 OF THE UNITED STATES CODE AND RECEIVERSHIPS; AND TRANSFERRED ASSETS.—Notwithstanding the provisions of subsection (a), any action or proceeding authorized by section 6851 (regardless of the taxable year for which the tax arose), chapter 70, or 71, as well as any other action or proceeding authorized by law in connection therewith, may be taken, begun, or prosecuted. In any other case in which the Secretary determines that collection of the amount of any assessment would be jeopardized by delay, the provisions of subsection (a) shall not operate to stay collection of such amount by levy or otherwise as authorized by law.

There shall be excluded from any amount assessed or collected pursuant to this paragraph the amount of interest, penalty, additional amount, and addition to the tax, if any, in respect of the period disregarded under subsection (a). In any case to which this paragraph relates, if the Secretary is required to give any notice to or make any demand upon any person, such requirement shall be deemed to be satisfied if the notice or demand is prepared and signed, in any case in which the address of such person last known to the Secretary is in an area for which United States post offices under instructions of the Postmaster General are not, by reason of the combatant activities, accepting mail for delivery at the time the notice or demand is signed. In such case the notice or demand shall be deemed to have been given or made upon the date it is signed.

(2) ACTION TAKEN BEFORE ASCERTAINMENT OF RIGHT TO BENEFITS.—The assessment or collection of any internal revenue tax or of any liability to the United States in respect of any internal revenue tax, or any action or proceeding by or on behalf of the United States in connection therewith, may be made, taken, begun, or prosecuted in accordance with law, without regard to the provisions of subsection (a), unless prior to such assessment, collection, action, or proceeding it is ascertained that the person concerned is entitled to the benefits of subsection (a).

(f) TREATMENT OF INDIVIDUALS PERFORMING DESERT SHIELD SERVICES.—

(1) IN GENERAL.—Any individual who performed Desert Shield services (and the spouse of such individual) shall be entitled to the benefits of this section in the same manner as if such services were services referred to in subsection (a).

(2) DESERT SHIELD SERVICES.—For purposes of this subsection, the term "Desert Shield services" means any services in the Armed Forces of the United States or in support of such Armed Forces if—

(A) such services are performed in the area designated by the President pursuant to this subparagraph as the "Persian Gulf Desert Shield area", and

(B) such services are performed during the period beginning on August 2, 1990, and ending on the date on which any portion of the area referred to in subparagraph (A) is designated by the President as a combat zone pursuant to section 112.

(g) QUALIFIED HOSPITALIZATION.—For purposes of subsection (a), the term "qualified hospitalization" means—

(1) any hospitalization outside the United States, and

(2) any hospitalization inside the United States, except that not more than 5 years of hospitalization may be taken into account under this paragraph.

Paragraph (2) shall not apply for purposes of applying this section with respect to the spouse of an individual entitled to the benefits of subsection (a).

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